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December 8, 2022

BY ECF

The Honorable Paul G. Gardephe
United States District Court for the Southern District of New York
40 Foley Square, Room 2204
New York, New York 10007


Re: Augenbaum v. RC Ventures LLC, et al., No. 22 Civ. 9327

Dear Judge Gardephe:

Pursuant to Rule IV.A of your Honor's Individual Rules of Practice for Civil Cases, defendant Bed Bath & Beyond Inc. ("BBBY") respectfully submits this letter to join in defendant RC Ventures LLC's ("RC Ventures") request for leave to file a motion to dismiss the complaint filed by Plaintiff in the above-captioned action under Fed. R. Civ. P. 12(b)(6).¹ To avoid burdening the Court with duplicative arguments, BBBY hereby adopts the arguments contained in the pre-motion letters submitted by RC Ventures on November 23, 2022 and December 2, 2022. See ECF Nos. 12, 14. For the reasons set forth in those letters, the complaint fails to state a claim, any motion for summary judgment would be premature, and the discovery stay under the PSLRA should remain in place.

BBBY therefore respectfully requests that the Court permit the filing of motions to dismiss the complaint.

Sincerely,


Jared Gerber

¹ Although BBBY is identified as a "defendant" in the complaint, Plaintiff does not assert any claims against BBBY or seek any relief from BBBY. Compl. at 1, 9-10. Instead, the complaint only states that BBBY is purportedly "a necessary party because Plaintiff is bringing this action to obtain a recovery for [its] benefit." Compl. ¶ 4.